

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALICIA HOPPER,

Plaintiff,

- against -

BANANA REPUBLIC, LLC,  
BANANA REPUBLIC, INC., and  
THE GAP, INC.,

**Defendants.**

**07-CIV-8526 (WHP)(THK)**

**DEFENDANTS' STATEMENT OF  
MATERIAL FACTS PURSUANT TO LOCAL CIVIL RULE 56.1**

Pursuant to Rule 56.1 of the Local Civil Rules of this Court, Defendants Banana Republic, LLC, Banana Republic, Inc., and The Gap, Inc. (collectively, “The Gap”), submit the following statement of material facts as to which there is no genuine issue:

1. The agreement between RGIS, LLC (“RGIS”) and The Gap, entitled the RGIS Inventory Specialists Inventory Services Agreement, dated April 20, 2007 (the “Agreement”), states that the “parties intend that an independent contractor relationship shall be created.” (Declaration of Jeremi L. Chylinski (“Chylinski Decl.”) ¶ 2, Exhibit A)

2. The Agreement provides that “[t]he control of the work will be under the sole control of RGIS,” that employees of RGIS are paid by RGIS and not The Gap, and that no Federal, State or local taxes are withheld from the payments that The Gap makes to RGIS. *Id.*

3. The Agreement specifically articulates that “[a]ll expenses incidental to the performance of the services, including, but not limited to, employee wages and training, shall be borne by RGIS.” *Id.*

4. The Agreement states that “neither RGIS, nor its employees are entitled to any of the benefits that [The Gap] provides its employees. It is understood that [The Gap] will not provide and shall not be responsible for workers’ compensation insurance for RGIS or any of its employees.” *Id.*

5. The Agreement provides that “neither RGIS, nor its employees are entitled to any of the benefits that [The Gap] provides its employees” and “[i]t is understood that [The Gap] will not provide and shall not be responsible for workers’ compensation insurance for RGIS or any of its employees.” *Id.*

Dated: November 30, 2007  
New York, New York

Respectfully submitted,

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